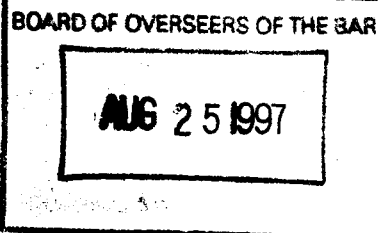


97-26

NOT TO BE PUBLISHED IN THE MAINE REPORTER

STATE OF MAINE
SUPREME JUDICIAL COURT



DOCKET NO. BAR-97-6

BOARD OF OVERSEERS OF THE BAR

v.

ORDER

RECEIVED

AUG 22 1997

DANIEL W. MOOERS

~~XXXX XXXX XXXX~~

This matter was heard pursuant to an information filed by the Board of Overseers of the Bar on May 23, 1997, charging that defendant Daniel W. Mooers (1) engaged in conduct unworthy of an attorney in violation of M. Bar R. 3.1(a) and (2) engaged in illegal conduct that adversely reflects on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects in violation of M. Bar R. 3.2(f)(2). The information is premised on defendant's guilty plea and conviction of one felony count of aiding and abetting the violation of currency reporting requirements set forth in 31 U.S.C. §§ 5324(a)(3) [formerly 5324(3)] , 5313(a) and 5322; 31 C.F.R. § 103.11; and 18 U.S.C. § 2. Defendant acknowledges that he engaged in illegal conduct and conduct unworthy of an attorney. Therefore, the only issue is the appropriate sanction to be imposed.

The purpose of bar disciplinary proceedings is not punishment, but "protection of the public and the courts from attorneys who by their conduct have demonstrated that they are unable, or likely to be unable to discharge properly their professional duties." M. Bar R. 2(a).

"When a member of the Bar is shown to be willfully dishonest for

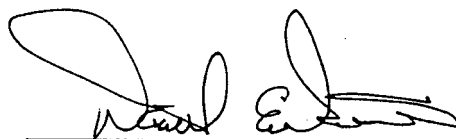
personal gain by means of fraud, deceit, cheating or like conduct, absent the most compelling extenuating circumstances . . . disbarment follow(s) as a matter of course." Board of Overseers of the Bar v. Wahl, BAR 86-11 at 4 (Jan. 21, 1987) (Roberts, J.) (quoting Maryland State Bar Association, Inc. v. Agnew, 318 A.2d 811, 817 (Md. 1974)). The Court will consider whether the crime involves moral turpitude, fraud and dishonesty, because a serious crime involving moral turpitude reflects adversely upon a lawyer's fitness to practice law. Wahl at 2.

Even though the violation of aiding and abetting the illegal structuring of a currency transaction is a felony, it requires no fraudulent intent or illicit purpose. The facts of this case reveal that, in one day, defendant permitted his client two withdrawals of cash from two separate business bank accounts totalling more than \$10,000. These acts violate the federal currency reporting requirements and constitute a felony. In no sense is the resulting conviction merely a technical violation, and defendant has been punished in accordance with the law. In the present context, it is important to note that defendant's actions were motivated neither by personal gain nor gain for his client. Defendant made a serious mistake in judgment, but no illicit purpose was contemplated or served. Defendant has no history of mistakes in judgment or questionable transactions suggesting dishonest behavior. To the contrary, testimonial evidence, together with numerous letters of character reference from clients, colleagues and friends attest to defendant's personal and professional integrity, and his extensive charitable and civic involvement. Defendant's singular action resulting in the felony conviction in this case is

antithetical to his otherwise strong moral character and his standing in the profession. Because the conviction involves no willful dishonesty nor moral turpitude, disbarment is not required. The public and the courts will be adequately protected by a reprimand and a suspended sanction.

Accordingly, it is hereby ORDERED and ADJUDGED that Daniel W. Mooers be and hereby is reprimanded and suspended from the practice of law in Maine for a period of 90 days. It is further ordered that all of the suspension be suspended on the condition that defendant commit no violation of the Code of Professional Responsibility for a period of two years from the date of this order.

Dated: August 22, 1997



DANIEL E. WATHEN, CHIEF JUSTICE

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